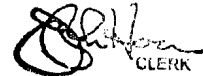


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED

JUL 10 2008


CLERK

UNITED STATES OF AMERICA,

CR 06-10023-01

Plaintiff,

ORDER

-VS-

JAMES JOHNSON, III

Defendant.

Defendant was sentenced for conspiracy to distribute methamphetamine on June 4, 2007, to 188 months custody, five years supervised release, a \$10,000 fine, and the \$100 special assessment. He has filed, Doc. 94, a motion to remit his fine pursuant to 18 U.S.C. § 3573(A)(1), which he sets forth as follows:

- (a) PETITION FOR MODIFICATION OR REMISSION. -- A defendant who has been sentenced to pay a fine, and who --
- (1) can show a good faith effort to comply with the terms of the sentence and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the installment schedule, may at any time petition the court for --
- (A) an extension of the installment schedule, not to exceed two years except in case of incarceration or special circumstances; or
- (B) a remission of all or part of the unpaid portion including interest and penalties . . .

The language he cites is from 18 U.S.C. § 3573 as it was enacted on October 12, 1984, Pub. L. 98-473, Title II, §212(a)(2). However, § 3573 was amended to provide, in relevant part:

Petition of the Government for modification or remission

Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court may, in the interest of justice --

- (1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties . . .

Pub.L. 100-185, § 8(a) (December 11, 1987). Clearly, § 3573 now authorizes remission of a fine only upon petition of the government. No such petition has been filed and the government resists the motion of the defendant.

Now, therefore,

IT IS ORDERED that the motion, Doc. 94, for remission of fine is denied.

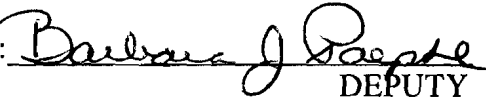
Dated this 10th day of July, 2008.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 
DEPUTY

(SEAL)